

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

WILLIAM RODERICK HILL,

Petitioner,

vs.

SHELTON FREY,

Respondent.

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Civil No. 04-605-DRH

MEMORANDUM AND ORDER

HERNDON, District Judge:

Before the Court is petitioner's motion for partial summary judgment (Doc. No. 17). William Roderick Hill filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He challenges a series of disciplinary decisions that resulted in revocation of statutory good time credit.

Summary judgment is proper where "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Fed. R. Civ. P. 56(c); *see also Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23 (1986).

In responding to the motion, Shelton Frey argues that summary judgment is not appropriate in a habeas proceeding. The materials on file show that Hill exhausted his state court remedies; however, the state courts did not address his Constitutional claims and procedural default is raised as a bar to habeas relief (Doc. No. 11). Because this case involves a procedural defense, the Court is not persuaded that Hill is entitled to summary judgment in his favor.

IT IS ORDERED that Hill's motion for partial summary judgment (Doc. No. 17) is DENIED.

DATED: March 21, 2006

/s/ David RHerndon
UNITED STATES DISTRICT JUDGE